8185390/2023/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT – LTR – Revision Petition filed by Sri Konam Srinivasarao S/o Late Surya Chandra Rao, Ramannagudem (V), Buttaigudem (M), West Godavari District and (4) Others against the orders of the Additional Agent to the Govt. K.R.Puram, West Godavari District in S.R.A.No.1/2018, dt.07.07.2018 for the land adm. Ac.1.47 Cts in R.S.No.54/2 of Ramannagudem (V), Buttaigudem (M), West Godavari District – Dismissed – Orders – Issued.

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SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.50 Dated:02.08.2023

Read the following:-

1. Revision Petition dt.02.04.2019 filed by Sri Konam Srinivasarao S/o. Late Surya Chandra Rao and (4) Others, Ramannagudem (V), Buttaigudem (M), West Godavari District together with its enclosures.
2. Smt. Tellam Ganga, W/o Sri Ramu (4th Respondent) has filed a Contempt case No.10/2022 before the Hon'ble High Court in W.P.No.10817/2019, dt.07.08.2019.
3. Para-wise remarks from the Project Officer, ITDA, K.R.Puram, Dated:01.04.2023.

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ORDER:

In reference 1st read above, Sri Konam Srinivasarao S/o Late Surya Chandra Rao, Ramannagudem (V), Buttaigudem (M), West Godavari District and (4) Others have filed a Revision petition before the Government of A.P., against the orders of the Additional Agent to the Govt., K.R.Puram, West Godavari District in S.R.A.No.1/2018, dt.07.07.2018 to the land adm. Ac.1.47 Cts in R.S.No.54/2 of Ramannagudem (V), Buttaigudem (M), West Godavari District.

2. Brief history of the subject case:

a) Smt. Tellam Ganga, W/o Sriramulu R/o Seethappagudem(V), Buttaigudem (M), West Godavari District has filed a complaint under Section 3(2)(a) of the APSALTR 1/59, as amended by regulation by 1/70 stating that an extent of Ac.1.47 cts in R.S.No.54/2 situated in a Scheduled Village of Ramannagudem, Buttaigudem (M), is an Agency Area, of the petition Schedule land is in possession and enjoyment of the respondent who is a non-tribe, is in contravention of sub section (1) of the Section (3) of APSALTR 1/59 as amended by regulation by 1/70 and requested that the said land may be taken possession after ejecting the respondent and to declaring that the transactions are and void under the provisions of the said regulations and this land may be ordered to be assigned to the eligible landless poor tribes.

(P.T.O)

b) After due enquiry, the Special Deputy Collector (TW), K.R.Puram, West Godavari District allowed the petition of Smt. Tellam Ganga W/o Sriramulu R/o. Seethappagudem (V), Buttaigudem (M) and directed the Tahsildar, Buttaigudem (M), West Godavari District to take possession of the land and report compliance to this court in S.R.No.51/2015, dt.13.11.2017.

c) Aggrieved by the above orders, Sri Konam Srinivasarao S/o. Late Surya Chandra Rao R/o. Ramannagudem (V), Buttaigudem (M), West Godavari District and (4) Others have filed an appeal before the Additional Agent to Govt., K.R.Puram, West Godavari District in SRA No.1/2018. Accordingly the appeal is dismissed and the interim orders passed by the appellate authority on 11.01.2018 in I.A. No.1/2018 in S.R.A. No.1/2018 are vacated.

3. Aggrieved by the above orders, Sri Konam Srinivasarao S/o. Late Surya Chandra Rao and (4) Others have filed a Revision Petition before the Government and requested to allow the revision and set-a-side the order passed in SRA No.1/2018, dt:07.07.2018 and pass such further order or orders as are necessary in the interest of justice.

4. In this connection, the Project Officer, ITDA, K.R. Puram cum the Additional Agent to the Government was requested to furnish the detailed Para-wise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. In reply to the above, the Project Officer, ITDA, K.R Puram, in his letter dt.01.04.2023 has enclosed the copy of order issued by the Additional Agent to Government, West Godavari District passed in S.R.A.No.1/2018, dt.07.07.2018 and the remarks on the affidavit filed by the Petitioner.

5. Meanwhile, Smt. Tellam Ganga, W/o Sri Ramu, R/o Buddulavarigudem Village, H/o Seethamppagudem Grama Panchayat, Buttaigudem Mandal, West Godavari District (4th Respondent) has filed a contempt case No.10/2022 before the Hon'ble High Court against Official respondents for not implementing the orders of the Hon'ble High Court in W.P.No.10817/2019, dt.07.08.2019 and requested to pass such other order or orders as the Hon'ble High Court may deem fit and proper. In this regard, Government have a filed the counter affidavit in CC.No.10/2022 before the Hon'ble High Court.

6. The main contention of the Revision Petitioners/ non-tribals is that the land was originally purchased by the petitioners paternal grandfather namely Konam Dakshinamurthy from other non-tribals namely Bede Kanthamma and Illa Chandrakanthamma through a Registered Dakhal Deed dated:10.05.1965 bearing Document No.475/1965 prior to the commencement of Andhra Pradesh Scheduled Area Land Transfer Regulation 1 of 59 as amended by 1 of 1970 (LTR) as such there is no violation of law and that after the demise of said Konam Dakshinamurthy, the said property was devolved to the 1st Revision Petitioner by way of succession, and the Tahsildar, Buttaigudem granted a Pattadar Pass Book and a Title Deed in the name of his mother in 2012 in pursuance of an order dated:25.10.1994 passed in S.R.No.247/93 by the Special

Deputy Collector, K.R. Puram. The Revision Petitioners also denied the contention of the 4th respondent that an extent of Ac.0.04 Cents of land covered by R.S. No.54/2 was sold to another non-tribe in the year of 2014, and claimed that the allegations are all false and created for the purpose of filing the case.

7. The matter finally stood over on 07-03-2023 for hearing. Heard both parties and perused the material papers available on the file including written submissions of the counsel of the Revision Petitioners. The following order is made.

a) Now the point for consideration is whether the Revision Petitioners came in to possession of the land situated in the scheduled area by way of succession of family property belonged to Konam Dakshinamurthy or any prohibited transfer of land involved in the case under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70.

Section 3(1) (a) prohibits transfer of immovable property situated in the agency tracts between Tribals and Non Tribals and also among the non- tribals after 03-02-1970.

b) As per the records, it is found that the transfer of land involved in the case was held between non-tribal Konam Dakshinamurthy and other non tribals namely Bede Kanthamma and Illa Chandrakanthamma through a Registered Dakhal Deed dated:10.05.1965 bearing Document No.475/1965. No doubt this transaction is valid since the said transaction reportedly was effected between the non-tribal parties prior to the commencement of Andhra Pradesh Scheduled Area Land Transfer Regulation, 1970. The Land Transfer Regulations 1 of 70 prohibits the transfer of land situated in the scheduled area between the non-tribals only after 03-02-1970 only.

c) But the material issue raised in the case is pertaining to the subsequent land transfers involved in the case in 1998. In the first round of litigation in SR No.247/93 the Special Deputy Collector, Tribal Welfare passed an order in favor of Konam Dakshinamurthy, who is claimed to be paternal grandfather of the Revision Petitioner.

d) However in the second round of litigation, held before the Additional Agent to Government in SRA No.1/2018 and Special Deputy Collector, Tribal Welfare in SR No.51/2015, a settlement deed dated:17-11-1998 said to have been executed by Konam Dakshinamurthy in favor of his son Konam Surya Chandra Rao was produced by the 4th respondent here in/tribal for an enquiry under the provisions of Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 70. This material document i.e settlement deed is a new and fresh material of the evidence, which was not covered by the earlier enquiry held in S.R.No.247/93. Moreover the 4th respondent tribal is also not a party to the earlier proceedings held in SR No.247/93 before the Special Deputy Collector, Tribal Welfare.

e) The plea of the 4th respondent /tribal is that further transaction which was held between Konam Dakshinamurthy and Konam Surya Chandra Rao through a settlement deed dated:17-11-1998 and handing over the possession of the appeal schedule lands as per the settlement deed is hit by the provisions of Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 1970.

The Section 2(g) of LTR 1 of 59 as amended by 1 of 70 defines the word *"Transfer"* which means mortgage with or without possession lease, sale, gift, exchange or any other dealing with immovable property, not being a testamentary disposition and includes a charge on such property or a contract relating to such property in respect of such mortgage, lease, sale, gift, exchange or other dealing.

f) Therefore except succession or testamentary disposition of the properties from Konam Dakshinamurthy to his son Konam Surya Chandra Rao no other way of transfer is permitted under the law. The records clearly show that a transfer was effected by virtue of a settlement deed between the persons other than the members of Scheduled Tribes on 17-11-1998 after the commencement of the LTR 1 of 70 is and void. Therefore the transfer of rights on the land in question through execution of a settlement deed is hit by the provisions of Section 3 of Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 70. On the other hand the Revision Petitioners failed to disprove the land transaction held through a settlement deed which was executed by Konam Dakshinamurthy in favor of his son Surya Chandra Rao in 1998.

g) Therefore there is no error of law in holding by the Appellate Authority that the Revision Petitioner did not acquire the title over the scheduled property by virtue of succession of family property from his father Konam Dakshinamurthy but through a settlement deed effected in 1998, which is and void.

h) The further claim of the Revision Petitioner is that the Tahsildar, Buttaigudem also granted Pattadar Pass Book and Title Deed in the name of his mother in 2012. Grant of Record of Rights(RoR) will not create any title over the land perse if the possession of such land by the Revision Petitioner in the scheduled area found to be in violation of Land Transfer Regulations 1 of 59 as amended by 1 of 70.

It is relevant to cite a decision of the Hon'ble High Court of Andhra Pradesh rendered in a case - Pathipati Rangamma Vs Agent to the Government at Khammam District (2010(4) ALD 769), where in it was held that transfer if found in contravention of the provisions of Section 3(1)(a) of Land Transfer Regulations 1 of 59 as amended by 1 of 70, such transfer will not be saved by virtue of validation under the provisions of Record of Rights Act 1971 and such record of rights cannot be said to be binding the enquiry under the provisions of Land Transfer Regulations.

i) Moreover, the enquiry held by the Special Deputy Collector, Tribal Welfare, K.R Puram, West Godavari District in S.R.No.51/2015 and further upheld by the Appellate Authority in S.R.A. No.1/2018 dated:07.07.2019, while observing that the sale effected between the 1st respondent and his mother for an extent of Ac.0.05 cts to Bitra Ramana W/o Yesu Dasu through an un-registered possessory agreement dated:08.03.2014 and also other sales for some more extents to another and some of they had constructed permanent houses and shops without obtaining permission from concerned authorities is also in clear contravention of Land Transfer Regulations(LTR). Transfer of land in a scheduled area by a non tribal to a non tribal is and void under the provisions of Land Transfer Regulations 1 of 70.

j) The Revision Petitioners have no evidence to dispel the legal presumption incorporated in clause (b) of Section 3 (1) of LTR which provides that if a non tribal is found in possession of land situated in the scheduled area, it shall be presumed to have acquired from a member of a ST unless and until is contrary proved.

The Revision Petitioners have failed to discharge their burden in disproving the evidence available on the record in respect of settlement deed effected in 1998 and further transactions held on the lands in question in 2014 through an un registered possessory agreements held between non tribal parties after the commencement of amended Land Transfer Regulations 1 of 70. Therefore the said transactions are and void.

k) The impugned order passed by the Additional Agent to Government is proper and within the frame work of the Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 70. Hence the impugned order does not warrant interference by this Revision Authority.

l) In exercise the powers conferred under section 6 of the Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioners is hereby dismissed. The orders passed by the Additional Agent to Government in SRA No.1 of 2018 dated:07.07.2019 conferring the orders of Special Deputy Collector(TW), West Godavari District passed in S.R.No.51/2015 dated:13.11.2017 are hereby upheld. In the result, Revision Petition is dismissed. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

8. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under section 6 of the Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70, the orders passed by the Appellate Authority Project Officer, ITDA, K.R.Puram, West Godavari District cum Additional Agent to Government in SRA No. 1 of 2018 dated:07.07.2019 conferring the orders of Special Deputy Collector(TW), West Godavari District passed in S.R. No.51/2015 dated:13.11.2017 are hereby upheld. Therefore the Revision Petition is hereby dismissed and Interim orders passed if any are hereby vacated in the matter.

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9. The Collector & District Magistrate, West Godavari District, Eluru is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records, which are returned herewith.

10. This order shall be published in apegazette.cgg.gov.in

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT (TW)

To
The Agent to Government cum Collector & District Magistrate, West Godavari District, Eluru.
The Additional Agent to Government cum Project Officer, ITDA, Kotaramachandrapuram, West Godavari District.
The Special Deputy Collector (TW), K.R. Puram, West Godavari District.
Sri Konam Srinivasarao S/o Late Surya Chandra Rao, Ramannagudem (V), Buttaigudem (M), West Godavari District.
Sri Tanuku Govinda Rao S/o Satyanarayana, R/o Nandapuram Village, Buttaigudem Mandal, West Godavari District.
Sri Birram Nagabhushanam S/o pullaiah, R/o Nandapuram Village, Buttaigudem Mandal, West Godavari District.
Sri Shaik Syed Baji, S/o Abdul Azeez, Ramannagudem Village, Buttaigudem (M), West Godavari District.
Sri Jaipalli Satyanarayana S/o Venkata Subba Rao, R/o Nandapuram Village, Buttaigudem Mandal, West Godavari District.

Copy to:
Smt.Tellam Ganga W/o Sri Ramu, Buddulavarigudem Village, H/o Seethappagudem Gram Panchayat, Buttaigudem (M), West Godavari District.
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PS to Dy.CM(TW),
PS to Secretary(TW)
The Director Printing, Stationery (for Publication in the A.P Gazette)
Sf/Sc

//FORWARDED : : BY ORDER//

SECTION OFFICER